



STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

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July 9, 1997

The Honorable John D. Dingell, Ranking Member
Commerce Committee Democratic Office
564 Ford House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Dingell:

Attached is the response of the Minnesota Public Utilities Commission (Commission) to your April 10, 1997 letter which requested answers to a number of questions relating to restructuring of the electric utility industry.

The Minnesota legislature and the Commission are actively exploring issues related to electric industry restructuring. Neither body has adopted any official position on the desirability of retail competition. In May 1996, the Commission adopted a set of *Electric Industry Restructuring Principles* (attached).

The Commission supports the positions taken, and information provided, in the National Association of Regulatory Utility Commissioners (NARUC) May 1997 response to your letter to the association. We will not try to duplicate that information or responses, and encourage you and your staff to look closely at the NARUC's comments.

I apologize for the lateness of the response. Our heavy workload in implementing the 1996 Telecommunications Act, among other things, has made it very difficult to find time to respond to other important matters.

If you or your staff have any questions about this response, please do not hesitate to ask.

Sincerely,

Burl W. Haar
Executive Secretary

c: John Gawronski, NARUC
Commissioners; Garvey, Storm, Johnson, Jacobs

Attachments

**RESPONSE OF THE MINNESOTA PUBLIC UTILITIES COMMISSION TO
REPRESENTATIVE DINGELL'S APRIL 10, 1997 LETTER REGARDING THE
ELECTRICITY INDUSTRY**

1. *Has your Commission or state legislature considered or adopted retail competition?*

Both the Commission and the state legislature are actively considering issues related to electric industry restructuring, including retail competition. Neither body has completed its consideration nor adopted retail competition as a policy goal at this time.

In April 1995, the Commission initiated an investigation into structural and regulatory issues in the electric utility industry (Docket No. E-999/CI-95-135). The Commission subsequently established an Electric Competition Work Group, made up of a wide range of stakeholders, to provide discussion and information to the Commission. The Work Group issued its Wholesale Competition Report on October 18, 1996; a report on retail competition is in the drafting stage and should be available by September 1997. In May 1996, the Commission adopted sixteen *Electric Industry Restructuring Principles* to help guide the Work Group; these principles are attached.

During its 1997 session, the committees of the Minnesota legislature held several informational hearings on the electric industry. Several bills relating to electric industry restructuring, including retail competition, were introduced at the end of the session, but no hearings were held on them. In the 1997 session, the legislature did expand the mandate of an existing Electric Energy Task Force to include a review of issues relating to the restructuring of the electric industry. [Minn. Laws 1997, Chapter 191]. Information hearings will be held this summer and fall by the Task Force, as well as by both House and Senate subcommittees. It is expected that electric industry restructuring will be actively considered in the 1998 legislative session.

2. *Has your state sought federal Congressional action on retail competition or related matters?*

No. We support the NARUC's response to Question 2.

3. *Does your Commission have authority to resolve stranded costs issues if Congress were to mandate retail competition by a date certain?*

Yes, the Commission believes it has the authority to address the recovery of costs in retail rates. However, we share the concerns expressed by the NARUC in its response to Question 3 about the potential legal impediments that could arise.

4. *Are there other areas in which your State does not have necessary authority to address issues arising from federal legislation mandating retail competition or repeal of PUHCA or PURPA?*

We support the NARUC response to Question 4. There are currently no registered holding companies operating electric utilities in Minnesota. However, with the recent trend in merger activities, that situation could change in the future.

5. *Constitutional issues raised by federal legislation?*

The Commission has not undertaken legal research on this question. Please see the NARUC response to Question 5.

6. *Practical problems if Congress mandates retail competition without grandfathering prior state actions?*

We support the NARUC response to Question 6. In addition, we would note that many factors, such as demographics, climate, electricity prices, types of electric utilities, fuel mix, level of potential stranded costs and stranded benefits, and many others, vary from state to state. If Congress does mandate retail competition, there should be as much flexibility as possible for individual states to design and implement retail competition to fit the needs of its citizens.

7. *Federally-mandated retail competition necessary to protect small consumers, since large industrials can already negotiate for lower rates, and the incidence of such rate reductions is on the rise?*

The legislature and the Commission have a history of, the desire to, and the ability to assure protection of small customer interests without federal legislation. State laws allowing rate reductions to larger customers have been carefully crafted to protect small, and other non-participating, customers, and Commission actions to implement these laws ensures this protection.

Minnesota Statute 216B.162 allows competitive electric rates, below the standard tariffed rates, to be negotiated between utilities and large customers under certain detailed conditions. Requirements include that the customer must have a true alternative for meeting its electricity needs, that the customer would be unlikely to take service from the utility at standard rates, and that it is in the interests of all other customers to offer the competitive rate. Amendments to this statute in the 1997 legislative session will allow another category of competitive rates to be offered with somewhat less restriction, but with no possible cost recovery from other ratepayers. Minn. Stat. 216B.161 provides for special area development rates for a limited period of time

under certain circumstances for manufacturing or wholesale trade customers. The statute specifically forbids recovery of any revenue shortfall from residential customers.

The Commission's restructuring principles emphasize that the benefits of competition should be realized by all customer classes, that universal service at reasonable rates is a primary goal, and that special attention must be paid to residential and small commercial customers in any transition process.

8. *Recent trends in electricity prices in your State and effect on various customer classes?*

According to information from the Minnesota Department of Public Service's *1996 Energy Policy and Conservation Report*, average electricity prices in Minnesota declined at an annual average rate of 2 percent from 1960 through 1994 in real terms. The Commission is not aware of any studies by customer class.

9. *Effect on shareholders and ratepayers if all electricity resources sold at a market price and no state authority to regulate retail rates? Mechanisms to manage those effects? Who should benefit from low-cost resources-shareholders, ratepayers, highest bidder?*

We support NARUC's response to Question 9.

10. *Issues related to reciprocity requirements.*

We support NARUC's response to Question 10.

11. *If Congress requires unbundling of distribution services, what practical problems would it present to state regulators?*

We support NARUC's response to Question 11. We would note that the Commission's Electric Competition Work Group has a subgroup discussing retail unbundling. A report on this issue is expected in the early fall of 1997.

12. *Does your Commission face particular problems in connection with public power or federal power in an increasingly competitive electricity market?*

The Commission has taken no position on the role of public power or federal power. Minnesota has approximately 125 municipal electric utilities and 45 cooperative electric associations. Some of these utilities have allocations of WAPA power.

- 13. *How would federal legislation mandating competition by a near term date certain affect funding needs for your Commission? Would increased funding be available if needed, and if not, what problems might arise?***

We support NARUC's response to Question 13.

Under the federal Telecommunications Act of 1996, states are required to implement a number of policies and make decisions on a large number of issues in a very short time. Such short time frames make it extremely difficult for state Commissions to receive additional funding from their legislatures, even assuming such money would be forthcoming if time permitted. In addition, state Commissions seldom, if ever, have the ability to immediately employ new staff to handle federal requirements. In addition, it takes time and resources to study new legislation and may involve knowledge and skills not fully available with existing resources.

- 14. *Has your Commission considered or adopted securitization plans as a means of providing recover of utility stranded assets? Risks and who bears them?***

The Commission has not considered or adopted such plans.

- 15. *Issues related to PUHCA reform: Does it impede competition? Should it be repealed or modified? Should the Ohio Power decision be modified through legislation?***

The Commission has not taken a position on PUHCA reform. We believe NARUC's response to Question 15 discusses the important issues. Also, see our response to Question 4.